

### REMARKS/ARGUMENTS

The Applicants are grateful to the Examiner for indicating that Claims 1-12 and 26-33 are allowable. Moreover, the Examiner is thanked for the performance of a thorough search. By this amendment, Claims 13-25 and 34-44 have been amended. Claims 45 and 46 have been cancelled. No claims have been added. Hence, Claims 1-44 are pending in the application.

### SUMMARY OF THE REJECTIONS/OBJECTIONS

Claims 13-25 were rejected under 35 U.S.C. § 112, second paragraph, allegedly as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claims 13-24 and 34-41, and 43-45 were rejected under 35 U.S.C. § 101 because the claims were directed to allegedly non-statutory subject matter. Claims 25 and 42 were similarly rejected under 35 U.S.C. § 101 because the claims were allegedly directed to non-statutory subject matter, namely a medium such as a data signal or a carrier signal. Finally, Claims 45-46 were rejected under 35 U.S.C. § 102(e) as being allegedly anticipated by U.S. Patent No. 6,718,486 to Roselli (“Roselli”).

#### THE REJECTIONS BASED ON SECTION 112

Claims 13-25 were rejected under 35 U.S.C. § 112, second paragraph, for allegedly failing to particularly point out and distinctly claim the invention. Claims 13-25 have been amended. Specifically, amended Claim 13 recites:

A computer-implemented method for providing out-of-band notification of service changes, comprising:

**configuring a cluster framework into a set of layers, wherein said set of layers comprise:**

an application layer comprising at least one of applications and middleware supporting the applications;

a database instance resource group interoperating with the application layer and comprising a database instance providing services; and

a monitor associated with the database instance resource group and exporting an out-of-band interface to the database instance resource group;

generating an UP service notification from the cluster framework upon service

availability; and generating a DOWN service notification from the cluster framework upon service non-availability.

The Applicants respectfully note that the amendment to Claim 13 is supported by the Specification. For example, with respect to Fig. 1, the present application states “[w]ithin each cluster framework 14, each of the database servers 11 incorporate high availability components,” and in connection with Fig. 2, the Specification describes one embodiment of those components, “the database stack 31 is logically divided into two parts: a cooperative resource group 32, and a resource 33. The cooperative resource group 32 includes a mobile internet protocol (IP) address 36, a database instance 35 (or high availability application), and external monitors 34.” Thus, Applicants respectfully submit that Claim 13 is patentable under 35 U.S.C. § 112, second paragraph. For at least this reason, the Applicants submit that Claim 13 is in condition for allowance.

Dependent Claims 14-25 depend from Claim 13, and hence, incorporate all of the limitations of Claim 13. These claims also recite further advantageous aspects of the invention. The Applicants submit that Claims 14-25 are patentable under 35 U.S.C. § 112, second paragraph, for at least the same reasons as those given above in connection with Claim 13.

#### THE REJECTIONS BASED ON SECTION 101

Claims 13-25 and 34-44 were rejected because the claims are directed to alleged non-statutory subject matter. The Applicants have amended Claims 13-24, 34-41, and 43-44. Specifically the Applicants have amended the language of those claims to indicate that the methods are “computer-implemented” methods. The Applicants submit that “computer-implemented” methods are statutory subject matter, and hence, Claims 13-24, 34-41, and 43-44 are in condition for allowance.

Claims 25 and 42 were also amended. The Applicants amended the language of the claims to indicate that the instructions on the computer-readable medium are “executed by a processor.” The Applicants submit that “A computer-readable storage medium holding instructions for causing a processor to execute” is statutory subject matter. Accordingly, Claims 25 and 44 are in condition for allowance.

**THE REJECTIONS BASED ON SECTION 102(E)**

Claims 45 and 46 were rejected under 35 U.S.C. § 102(e). Claims 45 and 46 have been canceled. The Applicants respectfully submit that these claims were canceled merely to expedite prosecution. Accordingly, the Applicants may pursue those claims independently at a later point.

**CONCLUSION**

For the reasons set forth above, it is respectfully submitted that all of the pending claims are now in condition for allowance. Therefore, the issuance of a formal Notice of Allowance is believed next in order, and that action is most earnestly solicited.

The Examiner is respectfully requested to contact the undersigned by telephone if it is believed that such contact would further the examination of the present application.

Please charge any shortages or credit any overages to Deposit Account No. 50-1302.

Respectfully submitted,

HICKMAN PALERMO TRUONG & BECKER LLP

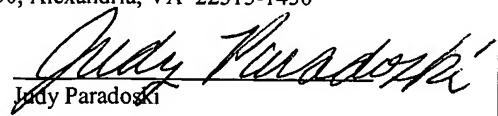
  
\_\_\_\_\_  
Brian D. Hickman  
Reg. No. 35,894

2055 Gateway Place, Suite 550  
San Jose, CA 95110-1089  
(408) 414-1080

**Date: November 9, 2005**  
Facsimile: (408) 414-1076

**CERTIFICATE OF MAILING**

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Mail Stop Amendment,  
Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450

on 11/9/05 by   
Judy Paradoski